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Dershowitz v. Boies: Jeffrey Epstein case unleashes war between two legal Goliaths

BY JULIE K. BROWN

JULY 05, 2019 06:17 PM, UPDATED JULY 08, 2019 04:11 PM

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Journalist Julie K. Brown reports on Jeffrey Epstein charges of conspiracy and sex trafficking underage girls in New York. BY [EMILY MICHOT](#)  | [DANIEL A. VARELA](#) 

It's a high-stakes war between two of the country's most powerful lawyers. Their feud, simmering for years, involves accusations of extortion, surreptitious recordings, unethical conduct and underage sex trafficking.

Harvard lawyer Alan Dershowitz has filed four bar complaints in three states — all of which have been dismissed — in a quest to disqualify lawyer David Boies and one of his partners who represent a woman accusing Dershowitz of sexually abusing her when she was underage, newly filed court records show.

The pugnacious Dershowitz, 80, and the equally zealous Boies, 78, have been sparring for decades. In recent years, both have suffered damage to their storied legacies, making this latest clash between the two legal titans one of the most important of their half-century careers.

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-New York Times Editorial Board

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Dershowitz, professor emeritus at Harvard Law School and one of the nation's most iconic civil libertarians, has defended such notorious clients as Claus von Bulow, Mike Tyson and O.J. Simpson. But after four decades of legal accolades, he is now facing a sex scandal and is forced to

clear his own name at a time when he's being confronted by a barrage of attacks on social media as one of the most fervent legal defenders of President Donald Trump.

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Boies has embraced high-profile liberal causes and made history with landmark court cases: He represented Al Gore in the Florida recount dispute in the 2000 election, which he lost; successfully defended press freedom in a lawsuit involving "60 Minutes"; and in 2013 secured a Supreme Court victory overturning a California ban on same-sex marriage.

But Boies' image has also been tarnished in recent years by his aggressive, and often ruthless, representation of controversial clients such as Hollywood film mogul and accused sex predator Harvey Weinstein and Elizabeth Holmes, founder of a blood-testing company that allegedly defrauded investors and clients.

Dershowitz's bar complaints — disclosed here for the first time — provide a window into the behind-the-scenes legal drama between two of the world's most brilliant lawyers. It also reveals new details about an explosive sex trafficking case involving Dershowitz's former client, [Jeffrey Epstein](#), a New York multimillionaire who, according to investigators, molested more than three dozen girls in Palm Beach in the years 1999 to 2006.



David Boies' fame was cemented by his advocacy in many high-profile cases, including arguing *Bush v. Gore* in front of the United States Supreme Court on behalf of the Democrat. He has also represented Virginia Roberts Giuffre, a victim of Jeffrey Epstein, who accused both Prince Andrew and Alan Dershowitz of having sex with her at Epstein's direction. Andrew Harrer *BLOOMBERG*

Dershowitz's bar complaints against Boies are mentioned in a 36-page filing in federal court in New York Wednesday, as part of a federal civil defamation suit lodged in April against Dershowitz by Virginia Roberts Giuffre. Giuffre, now 35, has claimed that when she was a minor she was directed to have sex with Dershowitz by Epstein, whom Dershowitz staunchly defended.

Dershowitz has repeatedly denied that he had sex with Giuffre — or anyone other than his wife — and in June filed a motion to disqualify Boies and his firm, Boies Schiller Flexner, from representing Giuffre in her defamation case. The firm has been representing Giuffre pro bono since 2014.

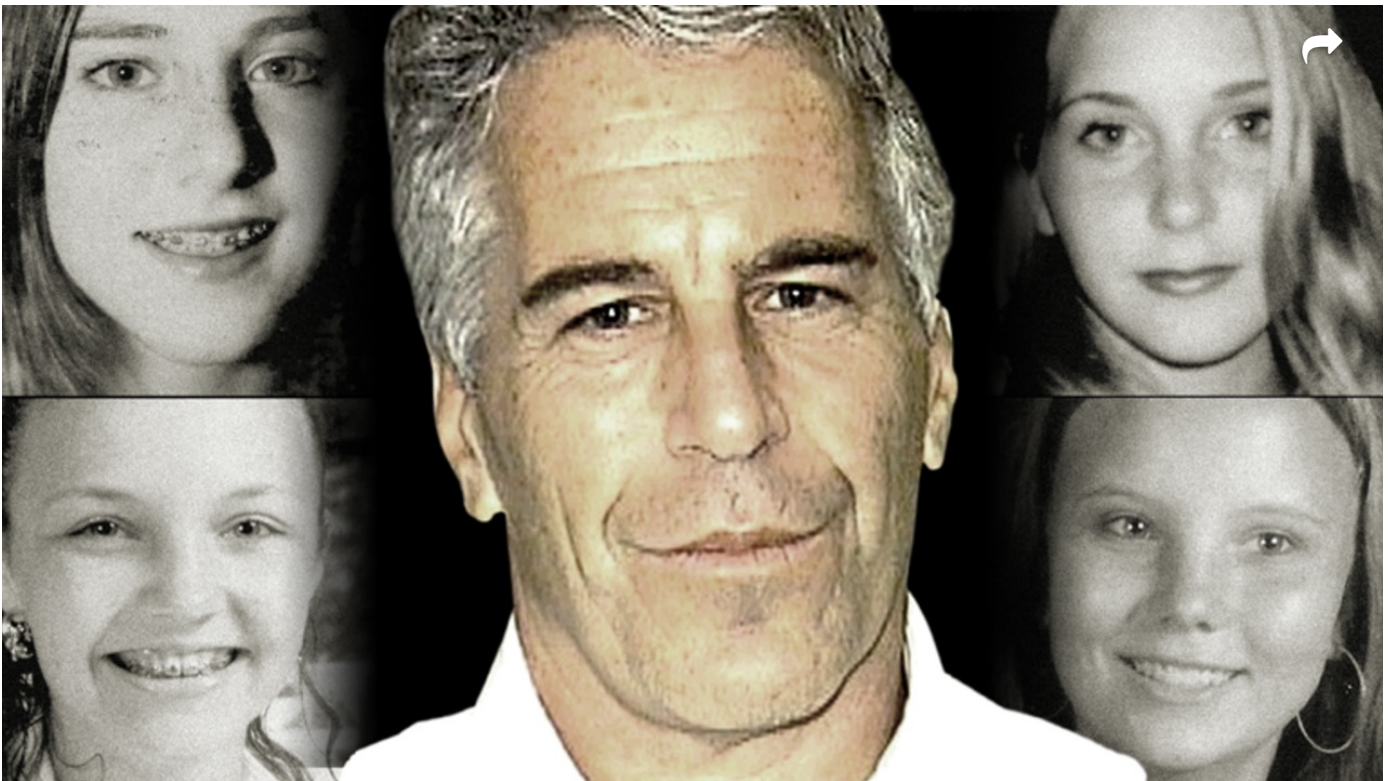
On Wednesday, BSF partner Joshua Schiller, son of founding partner Jonathan Schiller, filed papers in federal court in the Southern District of New York opposing the motion to dismiss the firm. The filing includes affidavits by five lawyers who say that Dershowitz either lied or distorted communications he had with them or with Boies involving the Giuffre case.

The attorneys, most of them current or former BSF partners, submitted the statements in connection with bar complaints filed by Dershowitz. The complaints, filed between 2015 and 2017, include: one in New York against Boies; one in Washington, D.C., against one of Boies' partners, Sigrid McCawley; and two in Florida — one against Boies and another against McCawley, who represents Giuffre.

Dershowitz, in a statement to the Miami Herald, asserts that the lawyers' affidavits are suspect since most of the attorneys are either members of Boies' firm or beholden to Boies.

"All the lawyers who have filed accusatory affidavits are Boies partners, former partners [who] depend on Boies referrals, or co-counsel with Boies who share contingency fees. None is in any way independent," Dershowitz said in an email Thursday.

Among the affidavits is one filed by Stanley Pottinger, a former U.S. assistant attorney general for civil rights who is now a principal in Edwards Pottinger, a firm in New York and Fort Lauderdale that specializes in sex abuse cases involving women and children.



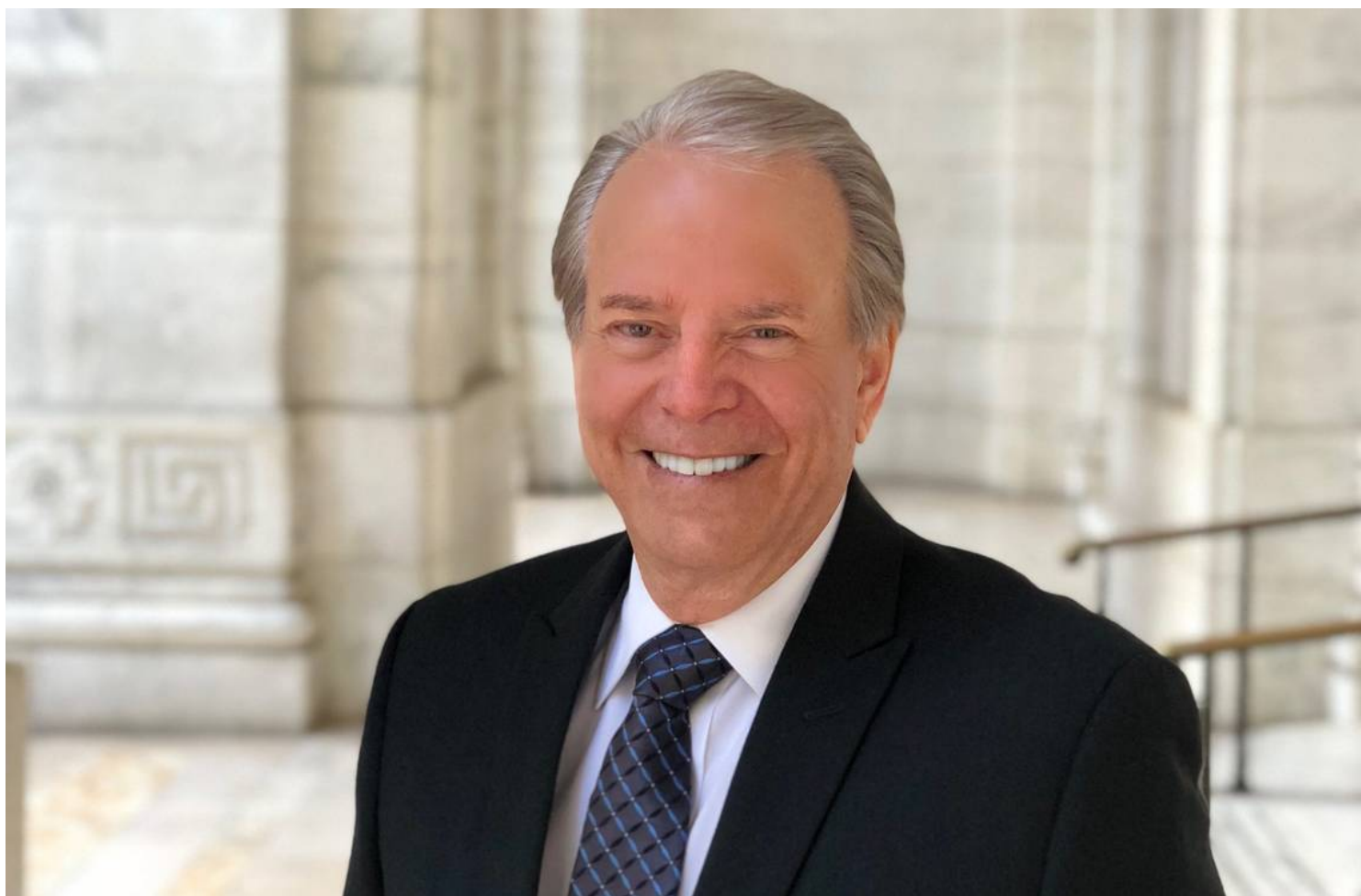
A Miami Herald investigation into Palm Beach hedge fund manager Jeffrey Epstein's sexual pyramid scheme targeting underage girls— and why he's a free man today. BY [EMILY MICHOT](#) ✉ | [JULIE K. BROWN](#) ✉

Pottinger, who represented Giuffre in 2014, said it was he who enlisted Boies to assist in her case because he predicted that Giuffre would become a target of vicious attacks by powerful and wealthy men she had identified as having sex with her under Epstein's direction. She needed an aggressive lawyer, one that could stand up to the kind of pressure that they anticipated.

Among those Pottinger mentions whom Giuffre claimed to have had sex with were Dershowitz and Les Wexner, an Ohio billionaire who is owner of the Limited Brands and Victoria's Secret clothing stores, according to Pottinger's affidavit.

Two other lawyers, Bradley Edwards, a former state prosecutor in Broward County who is now Pottinger's partner, and Paul Cassell, a former federal judge in Utah, were also part of Giuffre's legal team. Cassell, now a law professor at the University of Utah, is considered a legal expert on and advocate for crime victims' rights.

Pottinger's affidavit was submitted to the New York bar in 2017 in response to a complaint Dershowitz had filed claiming that Boies and McCawley had a conflict of interest and had committed ethics violations in representing Giuffre.



Stanley Pottinger, a former assistant attorney general in charge of the civil rights division, got David Boies involved in representing Virginia Roberts Giuffre.

That complaint mirrors his latest motion to dismiss the Boies firm from representing Giuffre in the current defamation case against Dershowitz in New York.

The dispute concerns an eight-day period in January 2015 after Dershowitz went on what he called “a media tour” in an effort to clear his name and discredit Giuffre and her attorneys. At the time, Dershowitz did not know that Boies was among those representing Giuffre, court records show.



The girls who were abused by Jeffrey Epstein and the cops who championed their cause remain angry over what they regard as a gross injustice, while Epstein's employees and those who engineered his non-prosecution agreement have prospered. BY [MARTA OLIVER CRAVIOTTO](#) | [EMILY MICHOT](#) | [JULIE K. BROWN](#)

EPSTEIN CASE

In December 2014, Cassell and Edwards filed an affidavit by Giuffre as part of a federal Crime Victims' Rights complaint they had brought six years earlier against the Justice Department in the Epstein case.

In the lawsuit, two of Epstein's victims claimed that federal prosecutors in Florida had improperly brokered a non-prosecution agreement in 2008 with Epstein and his lawyers without informing them, as was required by law. The deal, negotiated by then-Miami U.S. Attorney Alexander Acosta, was signed and sealed in secret, and by the time Epstein's victims learned about the deal — months later — it was too late for them to object.

Epstein was allowed to plead guilty in state court to two prostitution charges and served 13 months in the Palm Beach County jail, where he was given liberal work release, including permission to use his own valet to pick him up at the jail every day and take him to his office in downtown Palm Beach.




Edwards and Cassell argued that the deal was illegal, and in February, a federal judge agreed, affirming that Acosta and other prosecutors violated the Crime Victims' Rights Act by misleading Epstein's victims into believing that prosecutors and the FBI were still investigating the case when they had quietly disposed of it.

[Alan Dershowitz petition](#) by [Casey Frank](#) on Scribd

Case 1:19-cv-03377-LAP Document 8 Filed 06/07/19 Page 1 of 34

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Giuffre, who had fled Epstein to live in Australia when she was 19, was among three dozen girls who were listed by the FBI as victims in the case. In 2014, Cassell and Edwards wanted to add more victims to their lawsuit against the government and, that same year, Giuffre agreed to join the lawsuit.

Edwards and Cassell submitted a sworn affidavit in the case, signed by Giuffre, that detailed how she had been recruited into sex trafficking by Epstein and his then-partner, Ghislaine Maxwell. Giuffre met Maxwell in 2000 when Giuffre was a 16-year-old and working as a spa attendant at

Mar-a-Lago, Trump's winter home and members-only resort in Palm Beach. (Giuffre's original affidavit claimed that she was 15, but her employment records subsequently showed that she was 16 when she worked at Mar-a-Lago.)

Giuffre's affidavit set off a media firestorm when she alleged that one of the people she had been trafficked to by Epstein was Dershowitz. This was a loaded document to add to the victims' case because Dershowitz had represented Epstein in his criminal investigation and helped negotiate the secret non-prosecution agreement.

The deal included a provision giving immunity to Epstein — and others who were involved in Epstein's underage sex operation. Many of those co-conspirators have never been identified, and it has given rise to speculation that, if Giuffre's allegation was true, Dershowitz could have been among those who may have been covered by the immunity provision.

Dershowitz denied that he was in any way part of Epstein's alleged sex-trafficking operation, and says he has irrefutable evidence that shows he could not have been involved with Giuffre because he has never met her.

In January 2015, in a series of interviews on national TV, Dershowitz demanded that Edwards and Cassell be disbarred. He said, among other things, that the lawyers were prepared "to lie, cheat and steal," and had failed to properly investigate Giuffre's claims before making her affidavit public. He accused Giuffre of being "a serial liar," prostitute and unfit mother.

Edwards and Cassell promptly sued Dershowitz in Broward County for defamation.



Once a friend of presidents, the ultra-rich and the elite of Wall Street's bankers — plus a major benefactor to Harvard University — Jeffrey Epstein handled portfolios estimated to be worth over \$15 billion. Then he became ensnared in a scandal involving the sexual abuse of underage girls. He is seen here, pre-scandal, at left, in conversation with Alan Dershowitz, one of America's best-known legal experts and a Harvard Law professor emeritus, at a Cambridge event. Dershowitz became a key member of Epstein's legal team. Rick Friedman
CORBIS VIA GETTY IMAGES

On Jan. 22, 2015, Dershowitz appeared on the Today Show discussing the case. After the show, he was contacted by lawyer Carlos Sires, who was a partner in Boies' law firm and knew Dershowitz. Sires, in an affidavit, said he offered to help in any way he could, but did not know at the time that his firm was already representing Giuffre.

Sires said he told Dershowitz that he could not represent him until he cleared it with his bosses. For one thing, Sires said, Dershowitz wanted to negotiate the fee that he would be charged, and that wasn't something that Sires had the authority to approve.

"Mr. Sires told Dershowitz that the firm would need to run a conflict check before any potential representation was considered, and that the firm's chairman, Mr. Boies, would need to decide

whether to accept the representation and agree on a fee schedule,” wrote Schiller in Wednesday’s response.

Eight days later, Sires, after learning that Giuffre was a client of the firm, told Dershowitz he could not represent him for reasons that he could not disclose.

“Darn. I was hoping you could come on board. Thanks for considering it,” Dershowitz replied in an email attached to Sires’ affidavit.

VICTORIA’S SECRET OWNER ACCUSED

Dershowitz contends that during that eight-day period, he sent Sires confidential information about his legal strategy and that the firm used that information to help Giuffre’s case. This information would form the basis for Dershowitz to try to remove Boies and any other member of the firm from representing Giuffre.

Such a move would have been devastating for Giuffre, since it would be unlikely that another firm would take on her case pro bono, setting a terrible legal precedent for other sexual assault victims, Schiller argued.

[Boies law firm motion](#) by [Casey Frank](#) on Scribd

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIRGINIA L. GIUFFRE,

Plaintiff,

Case No.: 19 Civ. 3377 (LAP)

v.

ALAN DERSHOWITZ,

Defendant.

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION
TO DISQUALIFY BOIES SCHILLER FLEXNER LLP[Show me more about this topic ^](#)

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Moreover, Schiller and Sires claim that Dershowitz did not submit anything to the firm that was not already part of the court record. The firm nevertheless took steps to insulate Dershowitz's communications with Sires, a legal process that is common, especially among large law firms where potential conflicts can arise between lawyers who unintentionally bump up against clients on opposing sides of a case.

Months later, Dershowitz reached out to one of the firm's former partners, David S. Stone, to ask him to get him a meeting with Boies, records show. By then, however, McCawley — who was based in Fort Lauderdale — was the lead attorney handling Giuffre's case.

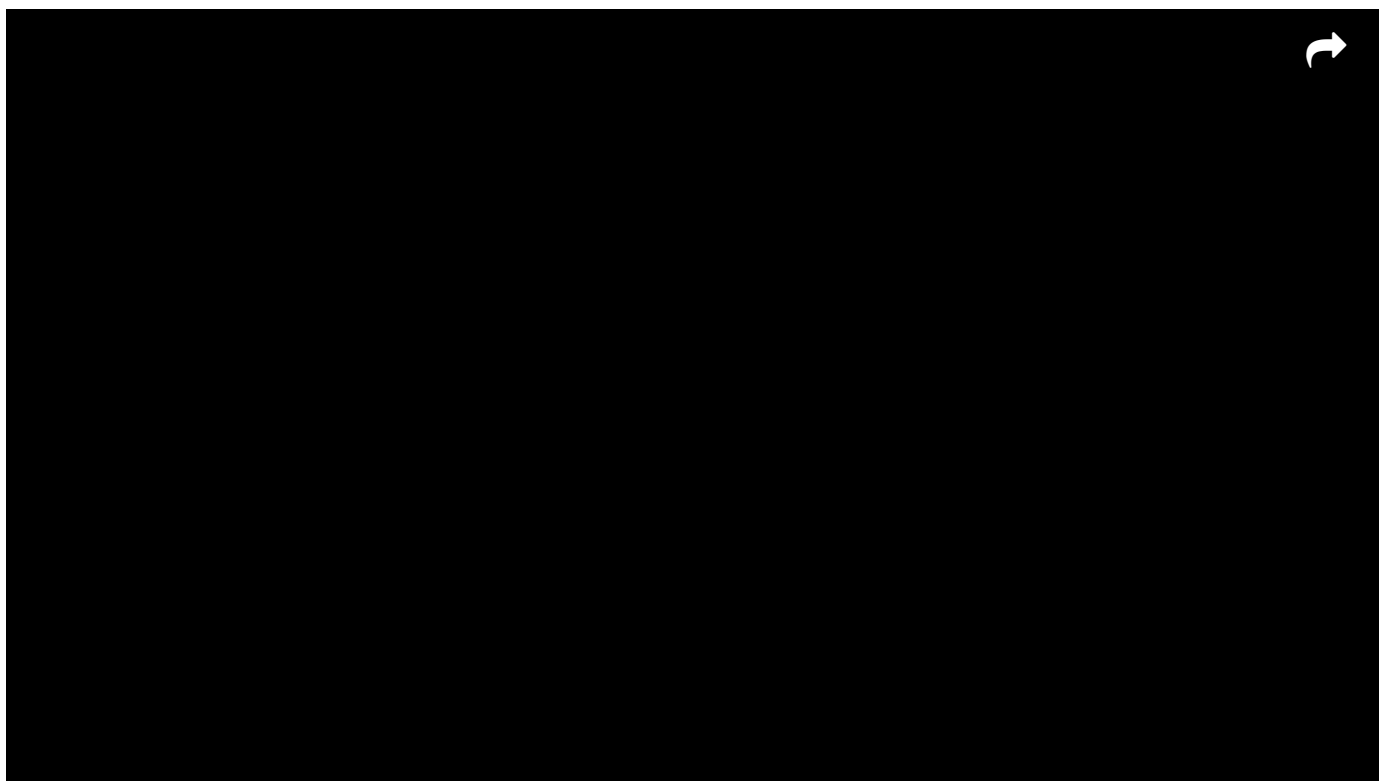
Boies said, in an affidavit, that he had not returned Dershowitz's phone calls because he felt that Dershowitz was trying to go around McCawley. But he reluctantly agreed to meet with

Dershowitz as a favor to Stone.

On May 19, 2015, Boies and Stone met with Dershowitz. Stone and other lawyers said that Dershowitz was eager to settle the matter by getting Giuffre to sign a document stating she was mistaken in identifying Dershowitz.

Beyond that, the content and context of those conversations is disputed, with Dershowitz insisting that Boies said he believed that Giuffre was “wrong, all wrong” — and with Boies and Stone saying nothing of the sort was said.

“Mr. Dershowitz has asserted that at a meeting on May 19 at which I was present, Mr. Boies stated ‘[Giuffre] was mistaken in naming me as someone with whom she had sex’ and that if ‘[Boies] failed to persuade her of that fact, he would leave her representation to Edwards and Cassell and no longer represent her.’ Mr. Boies did not say that on May 19 or at any other time I was present,” Stone said.



The girls who were abused by Jeffrey Epstein and the cops who championed their cause remain angry over what they regard as a gross injustice, while Epstein's employees and those who engineered his non-prosecution agreement have prospered. BY [MARTA OLIVER CRAVIOTTO](#) ✉ | [EMILY MICHOT](#) ✉ | [JULIE K. BROWN](#) ✉

Boies, in an affidavit, said he and the other lawyers thoroughly vetted Giuffre and believed she was credible. But as a precaution, Boies asked Giuffre to take a polygraph test, which she passed.

Boies and Dershowitz continued to have phone conversations — at least two of which Dershowitz acknowledges he recorded without Boies' permission. It is legal in some states to tape someone without their permission. Dershowitz says he didn't break the law.

"If this case comes to trial, a key witness will be David Boies, who told me in a recorded statement that his own client was 'wrong ... simply wrong' in accusing me because it would have been 'impossible' for me to have been in the places where she claims to have met me," Dershowitz said in a statement to the Herald.

"Boies can't be both a key witness, whose credibility is central to the case, and the key lawyer whose firm is litigating the case. He has no choice but to be a witness as a result of his exculpatory words."

Boies said Dershowitz's recordings were doctored and taken out of context.

"In June and July 2015, I had two meetings with Mr. Dershowitz and Mr. Stone and several telephone calls with Mr. Dershowitz in which Mr. Dershowitz argued that he did not have and could not have had, sex with Ms. Giuffre. After extensive consideration of everything Mr. Dershowitz told and showed me, I ultimately concluded that his denials were not credible," Boies said in a 2017 affidavit.

"Edwards and Cassell settled their defamation claim with Dershowitz in 2015. A judge ordered them to drop Giuffre's affidavit from the victims' rights case, and Dershowitz proclaimed victory, even though Boies has said the case was settled in Edwards' and Cassell's favor. Giuffre stood by her claims, and nothing in the judge's statement or the settlement addressed the truth or falsity of her allegations against Dershowitz.



This widely published photo of Virginia Roberts Giuffre with Prince Andrew bolstered her claim that she was loaned out for sexual purposes to famous men by Jeffrey Epstein. Copy Photo *COURTESY OF VIRGINIA ROBERTS*

The lawsuits continued, with Giuffre suing Maxwell in 2015, also for defamation. As part of that case, another woman, Sarah Ransome, came forward, claiming that Epstein and Maxwell also directed her to have sex with Dershowitz against her will when she was 22 years and being trafficked by the couple.

Dershowitz by then was accusing Boies and McCawley of extortion, claiming that they were part of the team of lawyers that concocted a plot to extort money from Wexner — another claim that Boies denies.

Wexner, 81, a longtime client of Epstein's, has not responded to the Herald's requests for comment.

In court papers, Boies has denied there were ever any demands or discussions involving money with Wexner or his lawyers.

A Boies partner based in Miami, Stephen N. Zack, however, said that starting in January 2015 there was a series of conversations and meetings between BSF lawyers and Wexner's attorneys. Boies personally attended one of those meetings on July 8, 2015, Zack stated in a 2017 affidavit.

"I have read Mr. Dershowitz's claim that there was a 'plot' and 'conspiracy' to extort Mr. Wexner. There was no such "plot" or "conspiracy," Zack wrote. "We requested information from Mr. Wexner's counsel. At no time in my conversations or in my presence did anyone make any threat or any demand for money or anything else of value from Mr. Wexner or his counsel."

It is unclear what those discussions involved, but Giuffre has not filed any claims against Wexner.

Dershowitz has nevertheless continued to publicize his theory about Wexner. In court documents, he has cited another prominent man, Nathan Myhrvold, 55, the former chief of technology of Microsoft.

Dershowitz theorizes that Giuffre has mistaken Dershowitz for Myhrvold, because, he says, Myhrvold looks similar. (Myhrvold has red hair, a beard and glasses.)

The Herald has been unsuccessful in reaching Myhrvold for comment. Myhrvold was among those in Epstein's circle of prominent friends who often dined at Epstein's palatial Manhattan home, according to a [2011 Vanity Fair article](#).

While Dershowitz publicly urged Giuffre and Boies to sue him for defamation — saying that he would welcome the case as an opportunity to prove his innocence — he is now asking the judge to dismiss the complaint, saying the First Amendment gave him the right to defend himself.

For his part, Boies said that Dershowitz is risking his own credibility, not only in this case, but in the court of public opinion.

"It's very dangerous to take one position publicly and another position in court," Boies said. "Eventually, both the public and the court figure out that you're lying and you lose your credibility in both forums and that's what he has been doing — trying to take one position publicly and another in court — and they are now clashing."

This article has been updated to correct the last name of Elizabeth Holmes.

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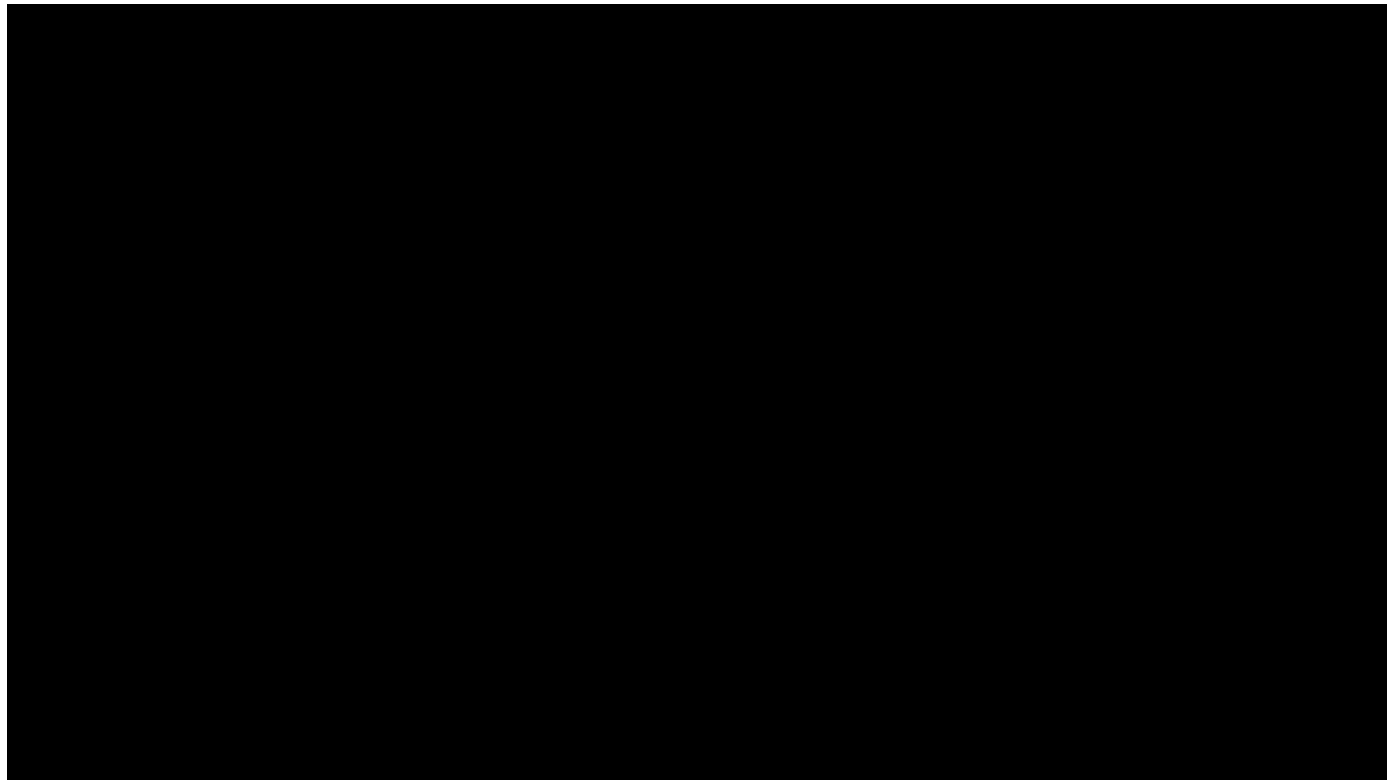
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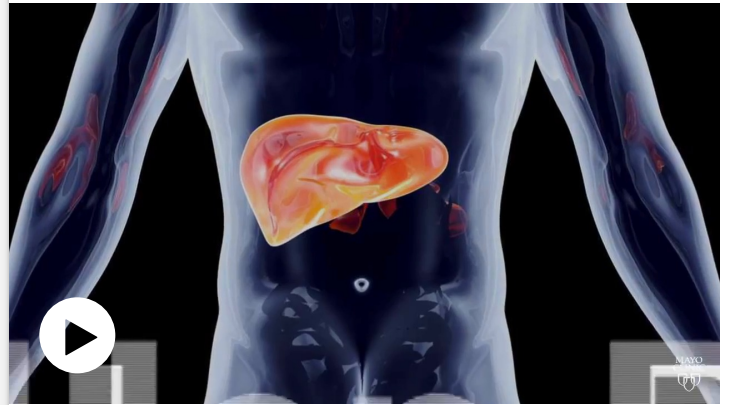
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